

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED

DEC 12 2008

William B. Guthrie
Clerk, U.S. District Court

By _____ Deputy Clerk

GARY LEE HICKS,

Petitioner,

v.

ERIC FRANKLIN, Warden,

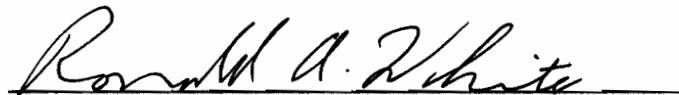
Respondent.

Case No. CIV 04-380-RAW-KEW

OPINION AND ORDER

Petitioner appealed the denial of his petition for a writ of habeas corpus, and the Tenth Circuit Court of Appeals reversed and remanded with instructions to vacate the judgment of dismissal and to grant the writ allowing petitioner to withdraw his guilty plea. *Hicks v. Franklin*, ___ F.3d ___, No. 07-7084 (10th Cir. Nov. 17, 2008) [Docket #35]. Therefore, the court's judgment entered on September 24, 2007 [Docket #23] hereby is vacated, and the writ of habeas corpus is conditionally granted. The writ shall issue, unless petitioner is allowed to withdraw his guilty plea in Johnston County District Court Case Number CF-2002-52 within 120 days. The respondent is directed to advise the court of the status of petitioner's state court proceedings.

IT IS SO ORDERED this 12th day of December 2008.



RONALD A. WHITE
UNITED STATES DISTRICT JUDGE